

Attorney Docket # 67RCE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Stephen MEYERS

Serial No.: 09/747,218

Filed: December 21, 2000

For: Simulated Speed of Light Delay for Recreational
Benefit Applications

Examiner: Rudy, Andrew J.
Group Art: 3627

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October 23, 2006

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

SIR:

This is a Request for a Panel Review of Issues on Appeal in accordance with the
Office Gazette Notice dated July 12, 2005. The present request is filed concurrently with a Notice
of Appeal and is filed before an Appeal Brief. No amendments are being filed with this request.

Arguments supporting the Request for Review begin on page 2 of the present
communication.

REMARKS/ARGUMENTS

This Notice of Appeal and Request is filed in response to the final Office Action dated May 22, 2006 and the Advisory Action dated July 25, 2006.

The matters to be reviewed are whether independent claims 21 and 44 are unpatentable over U.S. Patent No. 6,085,256 (Kitano).

Independent claim 21 recites “said server associating said each of the plurality of terminals interacting in the virtual recreation environment to a virtual location in the virtual recreation environment” and “said server delaying transmission of messages sent from the first terminal to the second terminal by implementing a delay time based on a virtual distance between the virtual locations of the first and second terminals in the virtual recreation environment, thereby simulating a delay associated with transmission of a message across the virtual distance”.

As pointed out by the Examiner, all transmissions involve some delay. However, the prior art does not disclose, teach or suggest purposefully delaying transmission between two terminals to simulate a delay associated with a virtual distance between the terminals in a virtual recreation environment, as expressly recited in independent claim 21.

Kitano relates to a cyber space system for providing a virtual reality space formed of three dimensional pictures from a server to a user via a service provider. As shown in Fig. 1 of Kitano, a cyber space system includes a server 11 for providing virtual reality space 10 and user terminals 13a, 13b connected to the server via a network (col. 6, lines 28-34 of Kitano). The user terminals 13a, 13b can receive signals representative of the virtual reality space 10 from the server 11 (col. 6, lines 34-36). Each user is associated with an exclusive user object which is placed in the virtual reality space (col. 6, lines 48-51 and col. 7, lines 19-21). The user objects of other users are viewed from the vantage point of a user’s own user object (see, e.g., Figs. 9 and 10).

As the Examiner acknowledges, Kitano does not disclose simulation delays. The Examiner further alleges that transmission delays are known in the electrical data transmission art. However, the fact that any type of transmission involves transmission delays -- whether the delays be minimal as in optical transmission of digital data or great as in mailing by pony express -- fails to address the claim language which recites (1) that a server associates each of the terminals with a virtual location in the virtual recreation environment and (2) that the server delays transmission based on a virtual distance between the virtual locations of the terminals, thereby simulating a delay associated with transmission of a message across the virtual distance.

Furthermore, since Kitano discloses that the users interact in the virtual reality space with objects in the virtual space that can be seen from the vantage point of their own user object in the virtual reality space, there are no long distances between the objects in the virtual space and thus there is no motivation for implementing transmission delays for simulating transmission delays between the objects in the virtual reality space based on the distance between the virtual locations of the objects in the virtual reality space.

Regarding the Examiner's statement that previous Official Notices are deemed admitted, in the Office Action of December 20, 2005, the Examiner took Official Notice that the location of a terminal, e.g., city name, GPS locations and various protocols are common knowledge in the art. While these statements may or may not be true, they do not disclose anything about delaying transmission based on a virtual distance between virtual location of two terminals between which the transmission is occurring. In the present Office Action, the Examiner took Official Notice that transmission delays are known in electrical transmission. That also does not teach or suggest delaying transmission based on a virtual distance between the virtual locations of the

terminals, thereby simulating a delay associated with transmission of a message across the virtual distance, as expressly recited in independent claim 21.

Lastly, the Examiner states that the claim language includes intended use language. However, the claims were previously amended to recite definitive limitations. The language pointed to by the Examiner, e.g., “for simulating” now appears in only a single instance. The claim now includes the definite statements “said server associating said each of the plurality of terminals interacting in the virtual recreation environment to a virtual location in the virtual recreation environment”, and “said server delaying transmission of messages sent from the first terminal to the second terminal by implementing a delay time based on a virtual distance between the virtual locations of the first and second terminals in the virtual recreation environment, thereby simulating a delay associated with transmission of a message across the virtual distance”.

Furthermore, independent claim 44 was added in the amendment filed on April 25, 2006 and recites that the server includes a processor running software for instructing the server to “associate said each of the plurality of terminals interacting in the virtual recreation environment to a virtual location in the virtual recreation environment”, “transmitting messages between first and second terminals of said plurality of terminals, the messages being related to the virtual recreation environment”, and “delaying transmission of messages sent from the first terminal to the second terminal by implementing a delay time based on a virtual distance between the virtual locations of the first and second terminals in the virtual recreation environment, thereby simulating a delay associated with transmission of a message across the virtual distance”. These are also definite limitations and not merely intended use language. These limitations are similar to the limitations of independent claim 21 and should be allowable for the same reasons. Applicant attempted to change “associate” to the gerund form -- associating -- in an amendment after final to

be consistent with the subsequent recitations of transmitting and delaying. However, the Examiner deemed this as requiring further search and/or consideration and did not enter the amendment.

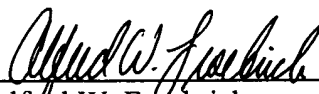
For all of the above reasons, independent claims 21 and 44 are deemed to be allowable over Kitano.

Dependent claims 22-26, 35-36, and 38-43, each being dependent on independent claim 21, are deemed to be allowable for the same reasons expressed above with respect to independent claim 21, as well as for the additional recitations contained therein.

The application is deemed to be in condition for allowance and notice to that effect is solicited.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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